

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

USDC SDNY
DOCUMENT
ELECTRONICALLY FILED
DOC #:
DATE FILED: 8/5/08

ARUN WIITA,

Plaintiff,

-against-

**JUDGMENT PURSUANT
TO RULE 68**

07 CV 11056 (MGC)

RAYMOND KELLY, Commissioner of the New
York City Police Department; THE CITY OF NEW
YORK; and POLICE OFFICER JOHN DOE,

Defendants.

WHEREAS, plaintiff commenced this action by filing a complaint on December 6, 2007, alleging violations of his civil rights; and

WHEREAS, on February 4, 2008, defendant City of New York made an Offer of Judgment in this matter pursuant to Rule 68 of the Federal Rules of Civil Procedure (Exhibit A attached hereto); and

WHEREAS, on February 19, 2008, plaintiff accepted defendant City's offer (Exhibit B, attached hereto);

NOW, THEREFORE, IT IS HEREBY ORDERED THAT:

1. The City of New York shall pay plaintiff Arun Wiita the sum of Fifteen Thousand and One Dollars (\$15,001), pursuant to the Rule 68 offer of judgment. The City of New York also shall pay plaintiff's attorneys' fees and costs in the amount of Sixteen Thousand Five Hundred Dollars (\$16,500), as agreed by the parties to be reasonable attorneys' fees and

costs as provided in the Rule 68 offer. The amount of the attorneys' fees and costs shall be paid to plaintiff's attorneys, the New York Civil Liberties Union Foundation.

2. This judgment shall be in full satisfaction of all claims or rights that plaintiff Arun Wiita may have to damages, or any other form of relief, arising out of the alleged acts or omissions of defendant City of New York or any official or employee, either past or present, of the City of New York, or any agency thereof including, but not limited to, the New York City Police Department and Raymond Kelly, in connection with the facts and circumstances that are the subject of this action.

3. This offer of judgment is made for the purposes specified in Rule 68 of the Federal Rules of Civil Procedure, and is not to be construed as an admission of liability by defendants City of New York or Raymond Kelly, or any official or employee of the City of New York, the New York City Police Department, or any other agency of the City of New York, or the City of New York; nor is it an admission that plaintiff Arun Wiita has suffered any damages.

4. Acceptance of this offer of judgment will act to release and discharge defendants City of New York and Raymond Kelly, their successors and assigns, and all past and present officials, employees, representatives and agents of the New York City Police Department, the City of New York, or any other agency thereof, or the City of New York, from any and all claims that were or could have been alleged by plaintiff Arun Wiita in the above-referenced action. Acceptance of this offer of judgment also will operate to waive plaintiff's

right to any claim for interest on the amount of the judgment. Plaintiff agrees that payment of \$15,001 within 90 days of the date of acceptance of the offer shall be a reasonable time for such payment.

Dated: New York, New York
August 5, 2008

SO ORDERED:

5 |

MIRIAM GOLDMAN CEDARBAUM, U.S.D.J.

**United States District Court
Southern District of New York
Office of the Clerk
U.S. Courthouse
500 Pearl Street, New York, N.Y. 10007-1213**

Date:

In Re:

-v-

Case #: ()

Dear Litigant,

Enclosed is a copy of the judgment entered in your case.

Your attention is directed to Rule 4(a)(1) of the Federal Rules of Appellate Procedure, which requires that if you wish to appeal the judgment in your case, you must file a notice of appeal within 30 days of the date of entry of the judgment (60 days if the United States or an officer or agency of the United States is a party).

If you wish to appeal the judgment but for any reason you are unable to file your notice of appeal within the required time, you may make a motion for an extension of time in accordance with the provision of Fed. R. App. P. 4(a)(5). That rule requires you to show "excusable neglect" or "good cause" for your failure to file your notice of appeal within the time allowed. Any such motion must first be served upon the other parties and then filed with the Pro Se Office no later than 60 days from the date of entry of the judgment (90 days if the United States or an officer or agency of the United States is a party).

The enclosed Forms 1, 2 and 3 cover some common situations, and you may choose to use one of them if appropriate to your circumstances.

The Filing fee for a notice of appeal is \$5.00 and the appellate docketing fee is \$450.00 payable to the "Clerk of the Court, USDC, SDNY" by certified check, money order or cash. No personal checks are accepted.

J. Michael McMahon, Clerk of Court

by: _____

, Deputy Clerk

APPEAL FORMS

Docket Support Unit

Revised: April 9, 2006

civ. ()

(party)

Revised: April 9, 2006

FORM 1

**United States District Court
Southern District of New York
Office of the Clerk
U.S. Courthouse
500 Pearl Street, New York, N.Y. 10007-1213**

-V-

**MOTION FOR EXTENSION OF TIME
TO FILE A NOTICE OF APPEAL**

civ. ()

Pursuant to Fed. R. App. P. 4(a)(5), _____ respectfully
(party)
requests leave to file the within notice of appeal out of time. _____
(party)
desires to appeal the judgment in this action entered on _____ but failed to file a
(day)
notice of appeal within the required number of days because:

[Explain here the "excusable neglect" or "good cause" which led to your failure to file a notice of appeal within the required number of days.]

(Signature)

(Address)

(City, State and Zip Code)

Date: _____

() _____
(Telephone Number)

Note: You may use this form, together with a copy of Form 1, if you are seeking to appeal a judgment and did not file a copy of Form 1 within the required time. If you follow this procedure, these forms must be received in the office of the Clerk of the District Court no later than 60 days of the date which the judgment was entered (90 days if the United States or an officer or agency of the United States is a party).

APPEAL FORMS

Docket Support Unit

Revised: April 9, 2006

FORM 2

**United States District Court
Southern District of New York
Office of the Clerk
U.S. Courthouse
500 Pearl Street, New York, N.Y. 10007-1213**

-V-

**NOTICE OF APPEAL
AND
MOTION FOR EXTENSION OF TIME**

civ. ()

1. Notice is hereby given that _____ hereby appeals to
(party)
the United States Court of Appeals for the Second Circuit from the judgment entered on _____.
[Give a description of the judgment]

2. In the event that this form was not received in the Clerk's office within the required time
_____ respectfully requests the court to grant an extension of time in
(party)
accordance with Fed. R. App. P. 4(a)(5).

a. In support of this request, _____ states that
(party)
this Court's judgment was received on _____ and that this form was mailed to the
(date)
court on _____
(date)

(Signature)

(Address)

(City, State and Zip Code)

Date: _____

() _____
(Telephone Number)

Note: You may use this form if you are mailing your notice of appeal and are not sure the Clerk of the District Court will receive it within the 30 days of the date on which the judgment was entered (60 days if the United States or an officer or agency of the United States is a party).

APPEAL FORMS

Docket Support Unit

Revised: April 9, 2006

FORM 3

**United States District Court
Southern District of New York
Office of the Clerk
U.S. Courthouse
500 Pearl Street, New York, N.Y. 10007-1213**

-----X
-V-
-----X

AFFIRMATION OF SERVICE

civ. ()

I, _____, declare under penalty of perjury that I have
served a copy of the attached _____

upon _____

whose address is: _____

Date: _____
New York, New York

(Signature)

(Address)

(City, State and Zip Code)

APPEAL FORMS

Docket Support Unit

Revised: April 9, 2006